

February 14, 2022 Declaration of Public Order Emergency
Explanation pursuant to subsection 58(1) of the *Emergencies Act*

Declaration of Public Order Emergency

On February 14, 2022, the Governor in Council directed that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act* declaring that a public order emergency exists throughout Canada that necessitates the taking of special temporary measures for dealing with the emergency.

In order to declare a public order emergency, the *Emergencies Act* requires that there be an emergency that arises from threats to the security of Canada that are so serious as to be a national emergency. Threats to the security of Canada may include the threat or use of acts of serious violence against persons or property for the purpose of achieving a political or ideological objective. A national emergency is an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law of Canada.

The proclamation made on February 14, 2022 specified that the public order emergency is constituted of:

- (i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,
- (ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,
- (iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States (US), that are detrimental to the interests of Canada,
- (iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and
- (v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians

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The proclamation specifies six types of temporary measures that may be necessary to deal with the public order emergency:

- (i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,
- (ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,
- (iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,
- (iv) measures to authorize the Royal Canadian Mounted Police (RCMP) to enforce municipal and provincial laws by means of incorporation by reference,
- (v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and
- (vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

These measures have been implemented by the *Emergency Measures Regulations* and the *Emergency Economic Measures Order*.

Section 58(1) of the *Emergencies Act* requires a motion for confirmation of a declaration of emergency, signed by a Minister of the Crown, together with an explanation of the reasons for issuing the declaration and a report on any consultation with the lieutenant governors in council of the provinces with respect to the declaration, shall be laid before each House of Parliament within seven sitting days after the declaration is issued.

Background leading to the declaration of emergency

The “Freedom Convoy 2022” was the first manifestation of this growing movement centered on anti-government sentiments related to the public health response to the COVID-19 pandemic.

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Trucker convoys began their journey from various points in the country, and the movement arrived in Ottawa on Friday, January 28, 2022. Since then, the movement has only continued to gain momentum across the country, with significant increase in numbers in Ottawa as well as protests and blockades spreading in different locations, including strategic ports of entry (e.g., Ambassador Bridge, Ontario; Coutts, Alberta; and Emerson, Manitoba).

Participants of these activities have adopted a number of tactics that are disrupting the peace, impacting the Canadian economy, and feeding a general sense of public unrest – either in favour or against the movement. This has included slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. The movement has moved beyond a peaceful protest, and there is significant evidence of illegal activity underway. Regular citizens, municipalities and the province of Ontario have all participated in court proceedings seeking injunctive relief to manage the threats and impacts caused by the convoy's activities, and a proposed class-action has been filed on behalf of residents of Ottawa.

Requests for Assistance and Consultations

The federal government has been in contact with its provincial counterparts throughout this situation and received requests for federal support to deal with the blockades from:

- the City of Ottawa for policing services;
- the Province of Alberta for Canadian Armed Forces to help with tow trucks at the Coutts port of entry; and
- the Province of Manitoba with respect to the port of entry at Emerson.

[Will need to align and verify with final consultation report.]

Emergency Measures Taken by Ontario

On February 11, 2022, the Province of Ontario declared a province-wide state of emergency under its *Emergency Management and Civil Protection Act*, in response to the interference with transportation and other critical infrastructure throughout the province, which is preventing the movement of people and delivery of essential goods.

Measures that have since been implemented under these emergency measures include: fines and possible imprisonment for protesters refusing to leave, with penalties of \$100,000 and up to one year of imprisonment for non-compliance.

On February 12, 2022, the Ontario Government also enacted legislation under the *Emergency Management and Civil Protection Act*, (Ontario Regulation 71/22) making it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. New Brunswick has announced that it will update its *Emergency Act* to prohibit stopping or parking a vehicle or otherwise contributing to the interruption of the normal flow of vehicle traffic on any road or highway.

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No other province has signaled its intent to take similar steps.

As detailed in the Reasons below, the convoy activities have led to an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency.

Reasons for Public Order Emergency

The situation across the country remains concerning, volatile and unpredictable. The intent of these measures is to supplement provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions. The convoy activities and their impact constituting the reasons for the emergency measures are detailed below.

- i. the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada**

The protests have become a rallying point for anti-government and anti-authority, anti-vaccination, conspiracy theory and xenophobic groups throughout Canada and other Western countries. The protesters have varying ideological grievances, with demands ranging from an end to all public health restrictions to the overthrow of the elected government.

Tactics adopted by protesters in support of these aims include slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. Trucks and personal vehicles in the National Capital Region continue to disrupt daily life in Ottawa. Convoy supporters formerly employed in law enforcement and the military have appeared alongside organizers and may be providing them with logistical and security advice, which may pose operational challenges for law enforcement should policing techniques and tactics be revealed to convoy participants.

Violent incidents and threats of violence and arrests related to the protests have been reported across Canada. The RCMP's recent seizure of a cache of firearms with a large quantity of ammunition in Coutts, Alberta, indicated that there are elements within the movement that have intentions to engage in violence. Ideologically motivated violent extremism adherents may feel empowered by the level of disorder resulting from the protests. Violent online rhetoric, increased threats against public officials and the physical presence of ideological extremists at protests also indicate there is a risk of serious violence and the potential for lone actor attackers to conduct terrorism attacks.

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ii. the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings

Trade between Canada and the US is crucial to the economy and the lives and welfare of every day Canadians. Approximately 75% of Canadian exports go to the US, generating approximately \$2 billion in imports/exports per day and \$774 billion in total trade between the two countries in 2021.

Blockades and protests at numerous points along the Canada –US border have already had a severe impact on Canada’s economy. Protests at the major ports of entry at the Ambassador Bridge in Windsor ON, Emerson MB, Coutts AB and Pacific Highway in BC, each of which is critical to the international movement of people and goods, required the Canada Border Services Agency (CBSA) to suspend services. Since the blockades began at the Ambassador Bridge, over \$390 million in trade each day with Canada’s most important trading partner, the United States, has been affected. This bridge supports 30 percent of all trade by road between Canada and the United States. The blockades in Coutts, Alberta, and Emerson, Manitoba, have affected approximately \$48 million and \$73 million in trade each day, respectively. In addition, throughout the week leading up to February 14, 2022, there were 12 additional protests that directly impacted port of entry operations. At two locations, Pacific Highway and Fort Erie, protestors had breached the confines of the CBSA plaza resulting in CBSA officers locking down the office to prevent additional protestors from gaining entry.

More specifically, disruptions at strategic ports of entry in Alberta, British Columbia, Manitoba and Ontario prior to the declaration of the emergency included:

- Ambassador Bridge, Windsor, Ontario: The busiest crossing along the Canada-US border had been blocked since February 7, 2022. After an injunction was issued on February 11, law enforcement started to disperse protesters. On February 13, 2022, police enforcement action continued with reports of arrests being made and vehicles towed. As of the evening of February 13, 2022, the Ambassador Bridge has been fully reopened, and no delays at the border crossing are being reported, but efforts continue to ensure that the bridge remains open.
- Emerson, Manitoba: As of February 13, 2022, vehicles of the blockade remain north of the port of entry. Some traveler traffic is able to enter Canada, however commercial and other traffic is being rerouted to adjacent ports of entry. The RCMP continues to let livestock vehicles go through.

Coutts, Alberta: The blockade began on January 29, 2022. As of February 14, 2022, the RCMP, who is the police of jurisdiction pursuant to the provincial Police Service Agreement have

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arrested 11 individuals and seized a cache of weapons and ammunition. As of the evening of February 15, the blockade has been cleared but efforts continue to ensure that it remains open.

- Vancouver, British Columbia (BC), and Metro area: On February 12, 2022, several vehicles including a military-style vehicle broke through an RCMP barricade in south Surrey, BC, on their way to the Pacific Highway port of entry. Protesters force highway closure at Canada-US border in Surrey.

Threats were also been made to block railway lines, which would result in significant disruptions. Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing to the agricultural, natural resource, wholesale and retail sectors. In addition, freight railways have Canadian operating revenues of more than \$16 billion a year.

The economic impact to date is estimated at approximately 0.1 per cent of Canada's gross domestic product (GDP) per week; however, the impact on important trade corridors and the risk to the reputation of Canada as a stable, predictable and reliable location for investment may be jeopardized if disruptions continues.

In addition to the significant adverse economic impacts, these blockades and protests directly threatened the security of Canada's borders, with the potential to endanger the ability of Canada to manage the flow of goods and people across the border and the safety of CBSA officers and to undermine the trust and coordination between CBSA officials and their American partners.

iii. the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the US, that are detrimental to the interests of Canada

The US has expressed concerns related to the economic impacts of blockades at the borders, as well as possible impacts on violent extremist movements. During a call with President Joe Biden on February 11, 2022, the critical importance of resolving access to the Ambassador Bridge and other port of entries as quickly as possible was discussed, given their role as vital bilateral trade corridors, and as essential to the extensive interconnections between our two countries.

Disruptions at ports of entry have significant impacts on trade with US partners and the already fragile supply chain, and have resulted in temporary closures of manufacturing sites, job loss, and loss of revenues. One week of the Ambassador Bridge blockade alone is estimated to have caused total economic loss of \$51 million for US working people and businesses in the automotive and transportation industry. Consequently, the protests have been the cause of significant criticism and concern from US political, industry and labour leaders.

The Governor of Michigan has issued several statements regarding her frustration with the ongoing protests and blockade and the damage they are doing to her state and constituents. Similar frustrations have been voiced by the General President of the International Brotherhood of Teamsters and the Canada-US Business Association. The blockades and protests are of such

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concern to the U.S government that the Department of Homeland Security Secretary has offered its assistance in ending the protests.

More generally, the protests and blockades are eroding confidence in Canada as a place to invest and do business. Politicians in Michigan have already speculated that disruptions in cross-border trade may lead them to seek domestic, as opposed to Canadian, suppliers for automotive parts.

iv. the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number

Canada has a uniquely vulnerable trade and transportation system. Relative to global competitors, Canadian products travel significantly further, through challenging geography and climate conditions. Moreover, trade and transport within Canada, and between Canada and the US is highly integrated. As a result, border crossings, railway lines, intra-provincial highways, airports and ports are integrated and are adversely affected where one or more of the components is blockaded or prevented from operating under normal capacity.

The closure of, and threats against, crucial ports of entry along the Canada-US border has not only had an adverse impact on Canada's economy, it has also imperiled the welfare of Canadians by disrupting the transport of crucial goods, medical supplies, food, and fuel across the US-Canada border.

In addition to the blockades along the border, protesters attempted to impede access to the MacDonald Laurier International Airport in Ottawa and threatened to blockade railway lines. The result of a railway blockade would be significant. Information published by the Railway Association of Canada reveals that Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing, to the agricultural, natural resource, wholesale and retail sectors.

v. the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians

The protests and blockades pose severe risks to public safety. While municipal and provincial authorities have taken decisive action in key affected areas, such as law enforcement activity at the Ambassador Bridge in Windsor, considerable effort was necessary to restore access to the site and will be required to maintain access.

There is significant evidence of illegal activity to date and the situation across the country remains concerning, volatile and unpredictable. On February 14, 2022, the RCMP made several arrests related to the protest at the border in Coutts, Alberta and seized a cache of firearms with a large quantity of ammunition, which indicates that there are elements within this movement that intend

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to engage in violence. The protest could also lead to an increase in the number of individuals who support ideologically motivated violent extremism and the prospect for serious violence.

As of February 14, 2022, approximately 500 vehicles, most of them commercial trucks, were parked in Ottawa's downtown core. There have been reports of protesters engaging in hate crimes, breaking into businesses and residences, and threatening law enforcement and Ottawa residents.

Protesters have refused to comply with injunctions covering downtown Ottawa and Ambassador Bridge and recent legislation enacted by the Ontario Government under the *Emergency Management and Civil Protection Act* (Ontario Regulation 71/22) making it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. In Ottawa, the Ottawa Police Service has been unable to enforce the rule of law in the downtown core due to the overwhelming volume of protesters and the Police's ability to respond to other emergencies has been hampered by the flooding of Ottawa's 911 hotline.

The inability of municipal and provincial authorities to enforce the law or control the protests may lead to a further reduction in public confidence in police and other Canadian institutions.

The protests in downtown Ottawa and the absence of law enforcement also impede the proper functioning of the federal government and the ability of federal government officials to enter their workplaces in the downtown core.

Furthermore, the protests jeopardize Canada's ability to fulfil its obligations under the *Vienna Convention on Diplomatic Relations* as a host of the diplomatic community and pose risks to foreign embassies, their staff and their access to their diplomatic premises.

vi. **there is credible evidence that significant amounts of funding for the protests come from sources outside of Canada, which raises concerns about foreign interference in Canadian affairs and questions whether they represent threats to the security of Canada**

Anecdotal reports of donations from outside Canada to support the protesters were given credence when, on February 13, 2022, hackers of the crowdfunding website, GiveSendGo.com, released hacked data that revealed information about donors and the amount of donations directed to the protesters. According to the CBC's analysis of the data, 55.7% of the 92,844 donations made public were made by donors in the U.S., compared to 39% of donors located in Canada. The remaining donors were in other countries, with the U.K. being the most common. The amount donated by U.S. donors totaled USD3.6 million. Many of the donations were made anonymously.

Reasons for Temporary Special Measures Adopted

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vii. suspending access by protesters to financial services will make it more difficult for them to sustain protests

The Emergency Economic Measures Order requires a comprehensive list of financial service providers to determine whether any of the property in their possession or control belong to protesters participating in the illegal blockades and to cease dealing with those protesters.

Financial service providers who would otherwise be outside federal jurisdiction are subject to the Order. Given the ability to move financial resources between financial service providers without regard to their geographic location or whether they are provincially- or federally-regulated, it is essential that all financial service providers be subject to the Order if protesters are to be prevented from accessing financial services.

In respect of insurance, provinces would only be able to cancel or suspend policies for vehicles registered in that province. Protestors from different provinces would not be subject, for example, to the Government of Ontario's powers under its declaration of a state of emergency to cancel licences of vehicles participating in blockades or prohibited assemblies.

Similarly, while Ontario's Emergency Management and Civil Protection Act authorized persons to provide assistance, it specifically does not compel them to do so. Tow truck operators remain free to decline requests to tow vehicles that were part of the blockades. It was beyond the capacity for the Province to ensure in a timely manner that tow trucks could be used to clear vehicles.

Conclusion

The occupation of downtown Ottawa and the blockades of ports of entry constitute a public order emergency, or an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency. These protests and blockades are causing significant adverse effects on Canada's economy, relationship with trading partners and supply chains and pose severe risks to public safety. The types of measures set out in the February 14, 2022 Proclamation are necessary in order to supplement provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions.

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